



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,684	09/08/2006	Serge Kurowski	Q96003	8969

23373	7590	04/12/2011
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037		

EXAMINER	
WOOD, KIMBERLY T	

ART UNIT	PAPER NUMBER
3632	

NOTIFICATION DATE	DELIVERY MODE
04/12/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

APR 11 2011

Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20037

In re Application of	:	DECISION ON THE PETITION
Serge Kurowski	:	REQUESTING WITHDRAWAL
Application No. 10/598,684	:	OF FINALITY
Filed: September 8, 2006	:	
For: DEVICE FOR SUPPORTING A ROTATING	:	
FRAME OF A FILTRATION INSTALLATION	:	

This is a decision on applicant's petition under 37 CFR 1.181, filed April 4, 2011, that requests withdrawal of the finality of the first Office action mailed February 4, 2011.

The petition is **GRANTED**.

A review of the file reveals that a non-final Office action that rejected claims 1-3, 6-9 and 11-12 under 35 USC 112, 2nd paragraph was mailed on August 23, 2010. The applicant responded with an amendment on November 23, 2010. A Final rejection that rejected claims 1-3, 6-9 and 11-12 under 35 USC 112 2nd paragraph mailed February 4, 2011. An after-final response to the above-noted Office action was received on April 4, 2011. The instant petition was also filed on April 4, 2011.

Applicant's petition argues that the finality of the Office action of February 4, 2011 is premature due to the fact that the examiner raised new rejections on claimed subject matter that was effectively unamended in the preceding amendment dated November 23, 2010. The applicant argues that adding new rejections under 112 2nd paragraph on subject matter that was present in the claims as originally filed would preclude the holding that these new rejections were necessitated by the applicant's amendment and would mandate a non-final Office action. Applicant's petition points out at least 3 separate instances of language that was not indicated as being indefinite in the non-final Office action of August 23, 2010, was unaltered in the amendment of November 23, 2010, and was indicated as being indefinite in the Final Office action of February 4, 2011.

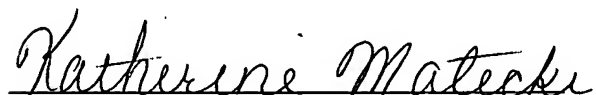
Applicant's arguments are well-taken. The examiner not pointing out the indefiniteness of the above noted examples cannot now make new rejections and make such an Office action final. Contrary to the examiner's Office action these newly raised indications of indefiniteness were not necessitated by amendment. The examiner providing the stipulation in the non-final Office action of putting the applicant on notice that "...the examiner may not have pointed out each and every example of

indefiniteness...applicant is required to review all the claim language to make sure the claimed invention is clear and definite", cannot serve as license to raise new rejections of indefiniteness under 112, 2nd paragraph and indicate them as necessitated by amendment. For this reason the finality of the rejection was premature.

The finality of the action mailed February 4, 2011, but not the action itself, is hereby withdrawn. As a result the after-final amendment of April 4, 2011 is entered as a matter of right. The application will be forwarded to the examiner of record for treatment on the merits of the now entered amendment of April 4, 2011.

The petition to withdraw the finality of the February 4, 2011 Office action is **GRANTED**.

Any questions or comments with respect to the decision should be forwarded to Quality Assurance Specialist, Steven Meyers at (571) 272-6611.


Katherine Matecki, Director
Patent Technology Center 3600
(571) 272-5250

Snm/snm: 4/10/11

